

HAINES BOROUGH CHARTER

**WITH PROVISION FOR TRANSITION
UPON CONSOLIDATION OF
THE CITY OF HAINES
AND
THE HAINES BOROUGH**

**Prepared by
THE CITY OF HAINES
PETITIONER**

December 20, 2000

**As Amended by the Local Boundary Commission with the Concurrence of the Petitioner
Following the March 9, 2002 Public Hearing on the Proposal**

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HAINES BOROUGH CHARTER

PREAMBLE AND BILL OF RIGHTS

We the people of the Haines Borough, exercising the powers of home rule granted by the Constitution of the State of Alaska, in order to achieve common goals, to support individual rights, to form a more responsive government, and to secure maximum control of our own local affairs, hereby establish this charter.

This charter guarantees to the people of the Haines Borough the following rights that are in addition to the rights guaranteed by the Constitution of the United States of America and the Constitution of the State of Alaska:

The right to a government of the people, by the people and for the people, which safeguards our diversity, harmony between neighbors and respect for the environment;

The right to access a well maintained public record of all actions of public officials in accordance with this charter, so that the citizens of the borough may retain control over the affairs of their government;

The right to enjoyment of private property, chosen lifestyles, traditions, employment, and recreational activities without unnecessarily restrictive or arbitrary laws or regulations.

ARTICLE I NAME AND BOUNDARIES

Section 1.01 Name of Borough

The municipal corporation shall be known as the Haines Borough.

Section 1.02 Form of Government

(A) Home rule. The Haines Borough government is a home rule borough established by the voters through the consolidation of the former first class City of Haines and the former third class Haines Borough.

(B) Form. The Haines Borough shall operate as a manager form of government.

Section 1.03 Boundaries

The boundaries of the Haines Borough shall include all areas within the borough on the date of ratification of this charter. The boundaries may be altered in the manner provided by law.

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Section 1.04 Participation With Other Governments

The people of the Haines Borough establish the borough government to represent their interests in dealing with other governmental bodies, including participating in joint funding projects with the State of Alaska or the United States federal government.

ARTICLE II THE ASSEMBLY AND THE LEGISLATIVE BRANCH

Section 2.01 Legislative Powers Vested in the Assembly

The Haines Borough Assembly shall be the sole legislative body of the Haines Borough.

Section 2.02 Composition and Apportionment of the Assembly

(A) Composition. The Haines Borough Assembly shall be composed of six members, elected to staggered terms.

Section 2.03 Qualifications, Terms, Compensation

(A) Qualifications. A candidate for the office of assembly member shall be a qualified voter of the Haines Borough and a resident for at least one year immediately preceding the election.

An assembly member who no longer resides in the Haines Borough shall forfeit his office.

(B) Terms. Except for the first assembly elected, the term of an assembly member is three years and until a successor qualifies.

(C) Compensation. The assembly by ordinance may provide for compensation of its members.

Section 2.04 Vacancies

If a vacancy occurs on the assembly, the remaining members shall attempt to appoint a qualified person to fill the vacancy within 30 days. The person appointed shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term.

Section 2.05 Organization and Rules of the Assembly

(A) Chair. The mayor shall serve as the presiding officer of the assembly. A deputy mayor, chosen by the mayor from among the assembly members, shall preside when the mayor is absent.

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(B) Meetings. The assembly shall meet in regular session as determined by ordinance. The mayor or three assembly members may call special meetings.

The assembly by ordinance shall determine its own rules and order of business, including provisions for reasonable notice to all assembly members of regular and special meetings.

(C) Journal. The assembly shall maintain a journal of its proceedings as a public record.

(D) Votes. Voting shall be by roll call, show of hands or other public method as defined by assembly rule. The votes of all assembly members shall be recorded in the journal.

(E) Quorum. A majority of assembly members constitutes a quorum; however, a smaller number may meet in public and reschedule a meeting that a quorum will be compelled to attend, as prescribed by assembly rule.

Section 2.06 Officers

The assembly shall appoint officers who serve at the pleasure of the assembly, advising and assisting the assembly and mayor, and whose duties of office are prescribed by borough code. Officers of the borough shall include the following:

- (A) Borough Manager;**
- (B) Borough Clerk;**
- (C) Borough Attorney;**
- (D) Chief Fiscal Officer.**

ARTICLE III LEGISLATION

Section 3.01 Legislative Body

The Haines Borough Assembly shall be the sole lawmaking body of the Haines Borough, creating and adopting any and all new borough laws and amendments, or repealing laws and amendments.

Section 3.02 Introduction and Enactment of Ordinances

(A) Introduction. An ordinance shall be introduced in writing in the form required by assembly rule. An ordinance may be introduced by an assembly member or the borough mayor at a regular or special meeting of the assembly.

(B) Notice and Hearing. Upon approval of four assembly members, the clerk shall publish a notice containing the text or a summary of the ordinance, the time and place for a public hearing, and where copies of the ordinance are available.

The public hearing shall be held seven or more days following publication of the notice.

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(C) Enactment. A simple majority vote of the total membership of the assembly may pass an ordinance. An ordinance takes effect upon adoption or at a later date specified in the ordinance. An adopted ordinance must be placed in the form required by borough code. Ordinances shall be attested by the borough clerk and by the mayor.

Section 3.03 Actions Requiring an Ordinance

In addition to other actions that require an ordinance, the assembly shall use ordinances to take the following actions:

- (1) adopt or amend administrative code;
- (2) levy taxes;
- (3) authorize borrowing of money;
- (4) grant, renew or extend a franchise;
- (5) regulate the rate charged by a public utility, when such regulation is consistent with Alaska Statutes;
- (6) provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;
- (7) adopt, amend or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes or similar land use control measures;
- (8) sell, convey, or lease--or authorize the sale, conveyance, or lease--of any interest in lands and real property of the borough, in accordance with requirements of the comprehensive plan;
- (9) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in Alaska Statute;
- (10) establish, alter, or abolish municipal departments;
- (11) establish, alter, consolidate, or abolish service areas;
- (12) make appropriations, including supplemental appropriations or transfer appropriations;
- (13) provide for the retention or sale of tax-foreclosed property;
- (14) transfer powers from the borough to another municipality.

Section 3.04 Emergency Ordinances

To meet a public emergency affecting life, health, welfare, or property, the assembly may introduce and adopt emergency ordinances at the same meeting.

A reasonable attempt shall be made to notify the mayor and all assembly members immediately upon introduction of an emergency ordinance.

An emergency ordinance shall contain a finding that an emergency exists and shall state the facts constituting the emergency.

An emergency ordinance is adopted upon the affirmative vote of all members present, or a supermajority of the total membership, whichever is less.

An emergency ordinance is repealed by resolution or automatically expires in sixty days.

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Section 3.05 Adoption by Reference

The assembly by ordinance may adopt by reference a standard code of regulations or a portion of the Alaska Statutes. The matter adopted by reference shall be made available to the public in a manner prescribed by ordinance.

Section 3.06 Codification

The assembly shall provide for indexing and codification of all permanent ordinances adopted by the assembly. Following preparation of the initial Haines Borough Code, all proposed permanent ordinances shall be adopted as amendments or additions to the code.

ARTICLE IV INITIATIVE AND REFERENDUM

Section 4.01 Initiative

(A) Applications of Initiative. Through the initiative process, voters of the Haines Borough may initiate and subsequently enact, amend, or repeal Haines Borough Charter provisions, ordinances, resolutions, and existing provisions of borough code.

(B) Restrictions. Initiative may not be used for dedication of revenues, making or repealing appropriations, creating courts and prescribing their rules, or enacting local or special legislation. Neither shall initiative be used to compel the adoption of a measure that is not enforceable by law.

(C) Voidance of petition. An initiative petition is void if the Assembly enacts substantially the same measure prior to the election.

(D) Repealing or altering initiative and referendum measures. The Assembly may not repeal or substantially alter an ordinance enacted by initiative within two years after certification of the election at which the initiative was approved. Neither shall the assembly repeal or substantially alter a provision enacted or adopted under (C) above within two years following its enactment or adoption. Further, the assembly may not enact or adopt a provision substantially similar to the one repealed by initiative or repealed under (C) above within two years following its repeal.

(E) Failed initiative. If an initiative fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

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Section 4.02 Referendum

(A) Applications. Through the referendum process, voters of the Haines Borough may compel a legislative measure that has been approved by the assembly to be referred for voter ratification.

(B) Restrictions. Referendum shall not be applied to dedications of revenue, appropriations, local or special legislation, or laws necessary for the immediate preservation of the public peace, health, or safety.

(C) Suspension of ordinance. A referendum petition may only be filed within 90 days following the effective date of the legislative measure in question. Filing of a referendum petition suspends the ordinance or resolution, and the assembly may not enact a substantially similar measure during the period of suspension. The suspension terminates on a finding of insufficiency of the petition or upon certification of a majority vote against repeal.

(D) Voidance of petition. A referendum petition is void if the Assembly repeals the measure in question prior to the referendum election.

(E) Failure. If a referendum fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

Section 4.03 Procedures for Initiative and Referendum Petition

(A) Application. An initiative is proposed by first filing with the borough clerk an application containing the provision or legislative measure to be initiated or referred. The application shall include the name and address of a contact person and an alternate and shall be signed by at least ten voters who will sponsor the petition. The clerk may accept additional sponsors at any time before the petition is filed. Within 14 days the clerk shall certify the application and prepare the petition if the clerk finds that it is in proper form and that it meets the provisions of this charter. A decision by the clerk on application for petition is subject to judicial review.

(B) Petition format. Each copy of the petition prepared by the borough clerk shall contain

- (1) on each page, a summary of the measure to be initiated or referred;
- (2) the complete provision or measure;
- (3) the date on which the petition is issued;
- (4) notice that signatures must be secured within 90 days after the date of issue;
- (5) spaces for each signature, printed name, the date of signature, and the residence and mailing address of each signer;
- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
- (7) space for indicating the total number of signatures on the petition.

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The clerk shall notify the contact person in writing on the day the petition is ready to issue. The contact person is responsible for notifying sponsors who may receive copies of the petition directly from the clerk's office or through the mail.

(C) Petition Signatures. A petition for initiative or referendum shall be signed by a number of qualified voters equal to at least 25 percent of the voters who cast ballots at the last regular borough election before the petition issue date.

- (1) The signatures must be secured within 90 days after the date the petition is issued.
- (2) The sponsor must sign the petition.
- (3) Signatures must be in ink or indelible pencil, accompanied by a legible printed name and address.

(D) Less-than-area-wide initiative and referendum. If an initiative or referendum petition affects only an area that is less than the entire area of the borough, only voters residing in the affected area may sign the petition and vote on the initiative or referendum. The clerk shall determine the number of signatures required on the petition by calculating 25 percent of the number of votes cast by voters in that area at the last regular election held before the date of petition issue.

(E) Sufficiency of petition. Within ten days from the filing of a petition for initiative or referendum, the borough clerk shall certify whether the petition is sufficient. A new petition on substantially the same matter may not be filed sooner than six months after certification.

(F) Protest. If the borough clerk certifies that an initiative or referendum petition is insufficient, a protest may be filed with the mayor within seven days after the certification. The mayor shall present the protest to the assembly for hearing and action at the next regular meeting.

Section 4.04 Initiative Election

(A) Time frame. Unless substantially the same measure is adopted by the assembly, the clerk shall submit the initiative to the voters at the next regular election at least 45 days but no later than 75 days after certification of the petition. If no regular election is scheduled during that time frame, a special election must be held.

(B) Presentation. The ordinance shall be published in full in the notice of the election, but it may be summarized clearly on the ballot.

(C) Results. The assembly shall adopt the measure upon the majority vote favoring the initiative, making it effective upon certification of the election or an effective date provided in the initiative.

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Section 4.05 Referendum Election

(A) Time frame. Unless the ordinance or resolution is repealed, the matter shall be submitted to the voters at the next regular election at least 45 days but no more than 75 days after certification of the petition. If no regular election is scheduled during that time frame, a special election must be held then.

(B) Presentation. The ordinance shall be published in full in the notice of the election, but it may be summarized clearly on the ballot.

(C) Results. The assembly shall repeal the measure upon the majority vote favoring the repeal. Otherwise, the measure remains in effect, or if it has been suspended, becomes effective upon certification of the election.

ARTICLE V EXECUTIVE BRANCH

Section 5.01 The Office of the Mayor

(A) Term. The mayor is elected at-large for a three-year term.

(B) Qualifications. A candidate for the office of mayor:

- (1) shall be a qualified voter of Haines Borough; and
- (2) shall be a resident of Haines Borough for at least one-year immediately preceding his election.

(C) Residency. If the person holding the office of mayor establishes residency outside the Haines Borough, he shall immediately forfeit the position.

(D) Compensation. The compensation of the Mayor shall be fixed by the assembly and may not be reduced during his term of office without his consent.

(E) Deputy mayor. The mayor shall designate one assembly member to serve as deputy mayor in his absence. If the office of mayor is declared vacant, the deputy mayor may be sworn in as mayor until the next regular or special election.

Section 5.02 Powers of the Mayor

(A) Executive. The executive power of the Haines Borough is vested in the mayor. The mayor presides at assembly meetings, acts as ceremonial head of the Haines Borough, and is responsible for additional duties and powers prescribed by this charter or borough code. The mayor may participate in all assembly meeting discussions, chairing the meetings, but shall vote only in case of a tie.

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(B) Representative. The mayor shall execute official documents of the Haines Borough on authorization of the assembly.

(C) Veto. The mayor may veto an ordinance, resolution, motion, or other action of the assembly and may strike or reduce appropriation items. The veto does not extend to:

- (1) actions of the board of equalization or the board of adjustment;
- (2) the appointment or dismissal of personnel;
- (3) adoption or repeal of a manager plan of government;
- (4) an ordinance adopted under AS 04.11.498.

The veto must be exercised and submitted to the assembly with a written explanation prior to or at the next assembly meeting. The assembly, by supermajority vote of the total membership, may override a veto any time within twenty-one days after its exercise. The mayor's failure to sign a legislative measure shall not constitute a veto.

(D) Law enforcement. In case of emergency, the mayor has the power of a peace officer and may exercise that power under the executive authority of the mayor to prevent disorder and to preserve the public health. The assembly by resolution may declare that the emergency no longer exists.

Section 5.03 Borough Manager

The Haines Borough operates under the manager form of government; any repeal of the manager form of government must be done by ordinance ratified by the voters of the borough at a regular or special election.

(A) Qualifications. The assembly shall appoint the manager as chief administrative officer, who serves at the pleasure of the assembly. The manager is selected solely on the basis of professional qualifications.

(B) Appointments. The manager is chief personnel officer and shall appoint all heads of borough departments not administered by boards, except for borough officers. All appointments and dismissals of department heads are subject to confirmation by the assembly.

(C) Responsibilities. The manager is responsible to the assembly for the overall conduct of the administrative functions of the borough. The borough manager may direct municipal officers and department heads in accordance with policies and procedures adopted by the assembly. The borough manager is responsible for additional duties and powers prescribed by this charter or borough code.

Section 5.04 Officers and Staff

The officers appointed by the assembly shall serve at the pleasure of the assembly and work under the direct supervision of the manager. All staff members are subject to the direction and supervision of the borough manager.

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Section 5.05 Administrative Procedures in Borough Code

The Assembly by ordinance shall adopt provisions regarding:

- (A) The methods of appointment and dismissal** of borough officers and other personnel;
- (B) the powers, duties, and limitations** of borough officers and the assembly in regard to personnel matters;
- (C) the identity, function, and responsibility** of each executive department and agency;
- (D) rules of practice and procedure** governing administrative proceedings;
- (E) personnel policy** and rules regarding employee evaluations for promotions and raises according to merit.

Section 5.06 Boards

(A) Types of boards. The assembly by ordinance may provide for advisory, regulatory, administrative, appellate or quasi-judicial boards or commissions. The ordinance shall prescribe the duties, terms and qualifications of members.

(B) Membership. The mayor appoints the members of boards and commissions, unless otherwise specifically provided in this charter. Appointments are subject to confirmation by the assembly. Persons appointed by the mayor serve at the pleasure of the mayor.

(C) Advisory role. Boards and commissions may make recommendations to the assembly, the mayor, the manager, and heads of executive departments on matters specified in the ordinance creating the board or commission.

(D) The assembly as quasi-judicial board. The Assembly by ordinance may designate itself to be a board of review, adjustment, or equalization. The ordinance shall prescribe the rules of procedure, including quorum and voting requirements. Any judgment made by the assembly or board acting in a quasi-judicial capacity must be carried by at least a supermajority vote of the entire assembly or board.

ARTICLE VI POWERS

The Haines Borough may exercise all powers available to a home rule borough, not prohibited by law or this charter

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Section 6.01 Areawide Powers

The Haines Borough shall exercise areawide the powers to provide for tax assessment and levy; planning, platting, zoning; and education.

In addition, the borough may exercise on an areawide basis, by ratification of this charter, the powers to provide for the following services:

- (1) control of hazardous substances,
- (2) emergency medical services and other medical services,
- (3) emergency dispatch,
- (4) ports and harbors facilities,
- (5) financing capital improvement projects,
- (6) public parks and recreational facilities,
- (7) public libraries,
- (8) museums,
- (9) cemeteries,
- (10) economic development (including tourism promotion),
- (11) disaster planning and emergency response,
- (12) solid waste management.

In addition to the powers to provide the services listed, the borough may exercise on an areawide basis all other powers of a home rule borough consistent with state law and this charter, upon ratification by borough voters at a regular or special election.

Section 6.02 Powers for Service Areas

(A) Available powers. Unless restricted otherwise by this charter, Alaska Statute, or borough code, any borough power not exercised areawide may be exercised on a service area basis. If already exercised areawide, the power may be exercised within a service area to provide a higher level of service.

(B) Reserved powers. The following powers are reserved for exercise in service areas only:

- (1) the establishment and operation of police departments (exclusive of related dispatch communication services);
- (2) the establishment and operation of fire departments, the hiring of firefighters and the contracting for fire services;
- (3) animal control.

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ARTICLE VII EDUCATION

Section 7.01 Public School System

The Haines Borough School District shall provide areawide public education in accordance with Alaska Statutes.

Section 7.02 School Board Membership

(A) Composition. The school district is operated by a school board of seven persons elected at large to staggered terms.

(B) Qualifications. A candidate for school board shall be a resident qualified to vote in the Haines Borough. A school board member shall remain a resident of Haines Borough while in office.

(C) Terms. The terms of all seats are for three years, except for the first school board elected, according to the procedures described in Article XIX regarding transition.

(D) Compensation. The compensation for school board members shall be fixed by resolution adopted by the assembly.

Section 7.03 Powers of the School Board

The school board has the powers provided by Alaska Statute and borough code to carry out its duties, some of which are formulating a six-year capital improvement plan, managing school personnel and facilities, supervising school district fiscal affairs, and implementing and maintaining a five-year curriculum and instruction plan.

Section 7.04 Relationship of the Borough School Board and Borough Assembly

(A) Joint meeting. The borough assembly and school board shall meet jointly at least once yearly in public session to discuss and coordinate financial planning, capital improvement needs, the six-year capital improvement plan, and other matters of mutual concern.

(B) Administrative procedures. The borough assembly shall by ordinance establish procedures for administration of school district finances and buildings, and which allow for the greatest possible autonomy of the school board within the limitations of this charter.

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ARTICLE VIII PLANNING

Section 8.01 Planning Commission

(A) Purpose. The Haines Borough Planning Commission shall be the sole planning body of the borough, guided by the comprehensive plan.

(B) Composition. The planning commission shall consist of seven members appointed by the mayor, with the approval of the assembly, to three-year staggered terms.

Section 8.02 Qualifications, Term, and Compensation

A candidate for planning commission shall be a resident qualified to vote.

A planning commissioner shall remain a resident in the Haines Borough.

The terms of all seats are for three years, with the exception of the first seats during the transitional period, as described in Article XIX.

Compensation for planning commission members shall be fixed by resolution adopted by the assembly.

Section 8.03 Powers and Duties

The planning commission shall have such powers and duties as provided by this charter and subsequent borough code as prescribed by the assembly. The planning commission shall

(A) present to the assembly a comprehensive plan including recommendations for zoning districts based on existing land uses and information gathered by a public hearing process;

(B) advise the assembly on all matters related to planning and zoning, including the establishment of political boundaries;

(C) formulate and develop planning proposals for submission to the assembly whenever requested to do so by the assembly or upon its own motion;

(D) gather information and inform the public at hearings on planning matters, promote public interest and understanding of the comprehensive plan;

(E) plan for borough capital improvements and land sales.

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Section 8.04 Comprehensive Plan

There shall be a comprehensive plan adopted and implemented by the assembly, which shall be presented to the assembly by the planning commission for adoption by ordinance. The plan shall serve as a guide for all planning commission recommendations and all assembly legislative action concerning land use and development issues. Among other prescriptions, it shall include the following:

- (1) statements of policies, goals, and standards;
- (2) a land use plan;
- (3) community facilities plan;
- (4) classification, plan, and requirements for disposal of borough lands;
- (5) a transportation plan; and
- (6) recommendations for implementation of the comprehensive plan.

Section 8.05 Proposals for Zoning and Boundary Changes

A proposal to amend zoning regulations and boundaries, or otherwise change zoning districts may be made by

- (a) a petition by 51 percent of the landowners in the petition area;
- (b) a notice of intent to introduce an ordinance the assembly;
- (c) a formal recommendation by the planning commission to the assembly.

Section 8.06 Form of Petitions

The petition to propose or protest a change of boundary or zone classification must be in a form prescribed by code, filed with the borough clerk. The petition shall include such data and information as may be necessary to support reasons for proposing or protesting the change. The clerk shall forward the petition to the planning commission.

Section 8.07 Protest

If a protest is filed by at least 25 percent of the landowners in the zone, the commission and the assembly may not proceed with the zoning change until the protests have been settled to the satisfaction of 66 percent of the landowners within the zone who respond in the time allowed.

Section 8.08 Hearings and Report

The planning commission shall have sixty days from the date of proposal to make its full report to the assembly. During this time, the planning commission shall provide public notice and hold one public hearing on the proposed zoning change and declare its findings by a formal motion.

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Section 8.09 Designation or Alteration

The assembly shall consider the commission report on any change and determine whether the proposal has sufficient merit. Any ordinance approved by the assembly designating or altering a zoning district, in conformance with comprehensive plan recommendations, shall be given at least two public hearings.

ARTICLE IX FINANCES

Section 9.01 Annual Budget and Capital Improvements Program

The operating budget shall be a complete and balanced financial plan for all operations of the borough, showing all reserves, estimated revenues from all sources, and the proposed expenditures for all purposes in the upcoming fiscal year. It shall also include a comparative statement of actual expenditures and revenues for the preceding year and a projection for the current year.

The capital budget shall be the portion of the annual budget detailing the planned capital improvements for the upcoming fiscal year and their source of funding.

The capital improvements program (CIP) shall be a plan detailing expected capital improvements for the next six fiscal years, the predicted costs, and proposed method of financing them.

Upon adoption by ordinance, the operating budget, capital budget, and CIP shall be the appropriations that govern all spending by the borough.

(A) Fiscal year. The fiscal year of the borough shall begin on the first day of July and end on the last day of June the following year.

(B) Submission and presentation. No later than April 1 of the current fiscal year, the manager shall present to the assembly the six-year CIP and the proposed operating and capital budget for the following fiscal year. The presentation shall include a written explanation of the budget and CIP focusing on the work to be done and the financial policies that will direct the funding of that work.

(C) Hearing and assembly action. The assembly shall hold at least two public hearings on the proposed annual budget no later than June 1. At least ten days prior to each hearing, the assembly shall publish in a general circulation newspaper a summary of the budget and notice of public hearing. Copies of the proposed budget shall be made available to the public.

(D) Assembly action and executive certification of budget. The assembly by ordinance shall adopt a budget and establish tax levies not later than June 15. If it fails to do so, the budget and tax levies submitted by the manager shall be deemed adopted by the assembly as the annual budget. The assembly by ordinance may provide for additional procedures regarding submission.

The manager shall certify the annual budget and CIP, making them part of the public record.

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Section 9.02 Altering and Transferring Appropriations

If the manager determines that revenues will be insufficient to meet the amount appropriated, he shall report to the assembly, and the assembly by ordinance and according to borough code may reduce as necessary any appropriation except for debt service.

The manager may transfer part or all of any unencumbered balance to another classification within a department, office, or agency.

The manager may transfer balances from one department to another only with the approval of the assembly through a re-appropriation.

Section 9.03 Enterprise Funds

Revenues from a municipal enterprise activity shall be used for the direct operating expenses and other expenses of the enterprise, such as debt retirement and providing for the establishment of an enterprise fund replacement reserve account for major maintenance and repairs. Any other use of enterprise fund revenues shall be made as authorized by ordinance or by budgetary action. If any general funds are used for enterprise fund projects, the amount will be repaid by enterprise activity according to procedures set forth in borough code.

Section 9.04 Emergency and Supplemental Appropriations

Surplus revenues from unexpected sources may be used to fund supplemental appropriations and emergency appropriations, in accordance with borough code.

Section 9.05 Lapse of Appropriations

Every unencumbered surplus of the general fund or special revenue fund shall lapse at the close of the fiscal year to the general fund or service area, respectively. An appropriation for capital improvement, or to meet requirements of federal or state grants, shall not lapse until the project is complete or abandoned.

Section 9.06 Administration of the Budget

(A) Centralized accounting. Except as otherwise provided by ordinance, the assembly shall provide for centralized accounting for all functions of the borough.

Except as otherwise provided by ordinance, the assembly shall provide for centralized purchasing and specifically designate the officers who shall write checks and place orders.

(B) Appropriations. Payments must be made by appropriation only. No payment may be made and no obligation incurred against any appropriation unless the manager ascertains that sufficient funds are or will be made available.

(C) Payments. The assembly shall by ordinance establish bylaws and procedures for making payments and recovering amounts expended without authorization.

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Section 9.07 Competitive Bidding and Contract Approval

The assembly by ordinance shall hold competitive bidding for the sales of borough property and the purchasing of goods and services.

The sale shall be offered to the highest bidder; the contract shall be awarded to the lowest qualified responsive bidder, excepting only contracts with officers and employees of the borough and professional services.

Section 9.08 Audits

The assembly shall provide for an annual independent audit of the accounts of the borough. The audit shall be made by a certified public accountant designated by the assembly.

Section 9.09 Permanent Fund

(A) Purpose. The Haines Permanent Fund holds and invests income from land sales and other sources identified by ordinance of the borough assembly. The permanent fund shall be maintained in perpetuity as a separate fund, apart from all other funds and accounts of the borough.

(B) Principal. The principal of the fund shall be invested in such types of income producing investments specifically designated by ordinance. Any use of principal other than reinvestment shall be made by ordinance ratified by the voters of the borough.

(C) Interest income. Only interest and dividends on the fund shall be spent. After a portion or all of the dividend and interest is returned to the fund principal as inflation proofing, surplus may be used for borough expenses.

ARTICLE X TAXATION

Section 10.01 Taxing Authority

The assembly shall always be the sole taxing authority in the borough.

Section 10.02 Kinds of Taxes

The assembly by ordinance may levy any tax and fee allowed by law to pay for borough services and capital improvements.

Section 10.03 Sales Tax Ratification

All sales tax ordinances shall be subject to ratification of the electorate within the area in which the tax will be in effect.

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Section 10.04 Tax Procedures

The assembly by ordinance shall prescribe the procedures for tax assessment, levy, and collection.

The procedures shall provide for assessment of property at full and true value, except as otherwise provided by law, and for notice of assessment, appeal, and judicial review.

Property taxes, with collection charges, penalties, and interest are first liens upon the property.

ARTICLE XI BORROWING

Section 11.01 Municipal Debt

The borough may borrow money for any public purpose, and issue its evidences of indebtedness for obligations which include

- (A) general obligation bonds;
- (B) special assessment bonds;
- (C) service area bonds;
- (D) revenue bonds;
- (E) refunding bonds;
- (F) bond anticipation notes; and
- (G) revenue anticipation notes.

Section 11.02 Limitations

(A) General obligations of the municipality. No general obligation bonded indebtedness may be incurred unless authorized by the assembly for capital improvements and ratified by a majority vote of those in the borough voting on the question, except that refunding bonds may be issued without an election and bond anticipation notes may be issued once the bond issue has been ratified.

(B) General obligations of service areas. No obligation by pledge of taxes to be levied in a service area may be issued unless authorized by the assembly for capital improvements and ratified by a majority vote from voters within the service area. Service area obligations may be additionally secured by a pledge of the municipality if the assembly authorizes and the areawide voters ratify the arrangement.

(C) Time limit on notes. Tax or revenue anticipation notes shall be repaid within twelve months from their date of issuance. When the taxes or revenues anticipated are not received within this time, the assembly may renew the notes for a period not to exceed six months.

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(D) Limitations of sale. The Assembly by ordinance shall provide for the form and manner of sale of bonds and notes including reasonable limitation upon the sale of bonds and notes to financial consultants of the borough.

Section 11.03 Notice of Bond Election

(A) Before holding any election required by this article, the assembly shall have a notice of election published once a week for three consecutive weeks. The first publication shall be at least 20 days prior to the date of election. For elections ratifying the issuance of general obligation bonds of the municipality or service area obligations additionally secured by a pledge of the full faith and credit of the municipality, the notice shall contain:

- (1) the amount of the bonds, purposes of issuance, length of time for the bonds to mature, and the maximum interest rate the bonds will bear;
- (2) the amount of the estimated annual debt service on the proposed bonds;
- (3) the amount of the current total general obligation debt;
- (4) the amount of the current year's debt service on the outstanding general obligation bonds; and
- (5) the current total assessed valuation within the municipality.

(B) For bonds secured by a pledge of taxes to be levied in a service area, the notice shall contain the same information listed above, but in regard to the service area.

Section 11.04 Actions Challenging the Validity of Obligations

Minor errors in the published notice shall not invalidate any subsequent election. Challenges to the sufficiency of any notice must be made no later than 30 days after the ordinance becomes effective.

An action challenging the validity of obligations of the borough or of an election or tax levy with respect to an obligation may be instituted only within thirty days after the adoption of the ordinance or resolution or certification of the election results, as the case may be.

Section 11.05 Proceeds From Sale of Obligations

Proceeds derived from the sale of obligations shall be used solely for the purposes for which the obligations were issued, or for payment of principal or interest or other charges with respect to the obligations.

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ARTICLE XII SERVICE AREAS

Section 12.01 Purpose and criteria of service areas

Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that already provided on an areawide basis. A service area may be established to meet a need, improve safety, increase economic operating efficiency, and provide other reasonable benefits to residents of that area. Only the area in which the service shall be provided shall comprise the service area.

.Section 12.02 Proposals and Protests

(A) Proposals. Service area creation, alteration, consolidation, or abolition may be proposed by

(1) a voter proposal petition following the same form and procedure as for less-than-areawide initiative; or

(2) a notice of intent by the assembly to introduce an ordinance.

The assembly by ordinance shall establish the full requirements for service area petitions of proposal and the notice of intent to introduce a service area ordinance.

By supermajority vote, the assembly may deny a petition that proposes the continued existence or creation of a service area.

(B) Protests. Voters within the area affected may protest a proposed or newly enacted service area ordinance. A protest petition must follow the same form and procedure as less-than-areawide initiative and referendum. If a petition of protest is certified, the ordinance is suspended until ratified by a majority of those in the area voting on the question.

If an ordinance to be ratified proposes that a service area be expanded, the voters in the area proposed for annexation and the voters in the existing service area must separately ratify the annexation.

If an ordinance to be ratified proposes that a service area be reduced, the voters in the area proposed for detachment and the voters in the proposed remnant service area must separately ratify the change.

Section 12.03 Establishment

Service areas are created, consolidated, altered, or abolished by ordinance. The ordinance shall contain

(1) boundaries and area to be included;

(2) service to be provided or eliminated; and

(3) other provisions the assembly may prescribe by ordinance.

The assembly shall by ordinance adopt procedures for the creation, alteration, consolidation, and abolition of service areas.

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Section 12.04 Administration and Finance

(A) Procedures. The assembly shall by ordinance prescribe procedures for the administration of service areas and financing services.

(B) Revenue. The assembly by ordinance may levy taxes, make assessments, receive state funds, and otherwise generate income to pay the costs of services provided.

(C) Separate accounting. An account for each service area shall be created and kept separate from all other borough accounts. Revenues collected within a service area may be applied only to service area costs; service area costs will be paid only from service area accounts.

(D) Service area boards. The assembly may provide for appointed or elected boards to supervise the furnishing of services in service areas.

ARTICLE XIII LOCAL IMPROVEMENT DISTRICTS

Section 13.01 Purpose and Criteria

Property owners may request the borough to create a local improvement district (LID) to fund a capital improvement project within the district.

An LID may be established only if the assembly determines there is a need for the capital improvement and that it will provide a reasonable benefit to property owners in the proposed district and to the borough at large. The assembly may prescribe additional criteria by ordinance.

The total cost of the planned capital improvement shall be less than the assessed value of property in the proposed LID owned by individuals or entities that do not object to the creation of the LID.

Section 13.02 Proposals, Protests, and Appeals

(A) Proposing LID creation. An LID may only be initiated by a petition of the property owners in the proposed LID. The petition must include a capital improvement plan detailing a carefully prepared and credible estimate of cost of the capital improvement to be borne by the property owners of the district. The capital improvement plan must list the estimated assessment for each lot or parcel of land in the proposed district. The petition must be signed by a number of property owners who collectively would bear more than 50 percent of the projected cost of the assessment for the capital improvement. The assembly shall describe by ordinance other requirements for the petition.

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(B) Protesting LID creation. If written protests are filed by at least 50 percent of the number of property owners in the proposed district, without regard to property value, the assembly shall not proceed until the protests have been settled to the satisfaction of 66 percent of the property owners in the proposed district. If a property owner has more than one lot or parcel of land within the proposed LID, that property owner may be counted only once for purposes of this protest procedure.

(C) Objections and appeals. A decision of the assembly concerning the creation of an LID or the assessment relating to the LID may be appealed to the superior court within 30 days of the date on which the assembly adopts the final assessment roll by resolution or ordinance.

Section 13.03 Establishment

The assembly shall establish an LID by ordinance and shall prescribe by ordinance procedures for the creation of an LID consistent with this charter. An LID may be dissolved by assembly resolution after the assessment of the LID has been paid in full.

Section 13.04 Finance

(A) Assessment. To pay for all or a portion of the project, the borough may levy and collect special assessments upon real property specifically benefited by such improvements. The assessment or levy shall be proportionate to the benefit received from the improvement, as determined by the assembly by ordinance.

A special assessment for capital improvements, with interest and collection charges, is a lien on the property assessed, second only to property taxes and prior special assessments.

(B) Accounting. An account for each LID shall be created and kept separate from all other borough accounts. Revenues collected within an LID may be applied only to LID costs; LID costs will be paid only from LID accounts.

ARTICLE XIV OTHER SPECIAL ASSESSMENT DISTRICTS

Section 14.01 Purpose and Criteria

The assembly by ordinance may establish special assessment districts to provide and finance relatively temporary capital improvements and services less suitable for LID or service area.

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The total cost of any proposed improvement and the cost of any proposed service over the first five years must be less than the assessed value of the property in the proposed special assessment district. The request for improvement shall be evaluated by the assembly based on the need for the proposed improvement or service and the benefit to the proposed district and the borough at large.

Section 14.02 Proposals and Protests

(A) Proposals. An improvement proposal may be initiated by

- (1) a petition to the assembly from the property owners who collectively would bear more than 50 percent of the cost of the total special assessment, or
- (2) the assembly, by notice of intent to introduce an ordinance.

(B) Protests. If written protests are filed by property owners who would collectively bear 50 percent or more of the cost of the special assessment, the assembly shall not proceed until

- (1) approval is granted by property owners who would collectively bear more than 50 percent of the special assessment, or
- (2) approval is given by a supermajority vote of the assembly.

Section 14.03 Establishment

The assembly shall prescribe by ordinance the procedures relating to establishing and dissolving special assessment districts, providing services, making improvements, and financing the work to be done. Public hearings and assembly action are required to determine the need for the improvements or service and the special assessment roll.

An assessment district may be formed or extended only with the approval of the majority of those being asked to pay, except that the assembly may form or extend a special assessment district with a supermajority vote of the assembly.

Section 14.04 Finance

Capital improvements may be funded by a tax assessment against property, and services may be funded by fee, assessment, or tax levy. In all cases, the fee, assessment, or levy shall be proportionate to the benefit received and the burden imposed upon the improvement or service.

Revenue generated by the assessment district shall be applied only to the improvement or service, and costs of the district must be provided for by the district itself.

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ARTICLE XV UTILITIES

The water and sewer utility services previously owned and operated by the City of Haines as enterprise fund projects are municipal utilities.

Section 15.01 Designating Utilities

The assembly may, by ordinance ratified by the voters areawide, designate other utilities as municipal utilities to be operated in the same manner as water and sewer utilities.

Section 15.02 Operating Standards

Municipal utilities shall be operated in a business-like manner in accordance with general standards for utilities providing the same services.

Section 15.03 Management

Municipal utilities may be operated and administered by the assembly or by one or more utility boards. The assembly shall prescribe by ordinance the rules and procedures for the convenient management, operation, regulation, and use of municipal utilities.

Section 15.04 Accounting

Each borough utility shall have a separate budget within the annual borough budget. The accounts of utilities shall be kept separately and classified in accordance with uniform accounting standards prescribed for public utilities providing the same services.

Section 15.05 Selling or Leasing

The assembly may, by ordinance ratified by a majority vote of areawide voters, sell or lease any utility service.

ARTICLE XVI ELECTIONS

Section 16.01 Regular Elections

A regular election shall be held annually on the first Tuesday in October, unless otherwise specified by ordinance.

Section 16.02 Special Elections

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The assembly, by ordinance or resolution, may call special elections and submit questions to voters.

Section 16.03 Notice

Not more than six weeks and at least three weeks before the election, the clerk shall publish in full every ordinance, charter amendment, and other question which is to be submitted to the voters for approval at that election.

Section 16.04 Election Procedures

All borough elections shall be nonpartisan. The assembly by ordinance shall establish procedures for regular and special borough elections, including provisions for absentee voting.

If no candidate receives more than 40 percent of the votes, the seat will be filled by the winner of a runoff election between the two candidates receiving the most votes.

In case of a tie vote for borough office, the assembly shall determine the successful candidate by lot.

Section 16.05 Qualifications of Voters

To vote in any borough election, a person must be registered to vote in Alaska State elections at a residence address within the Haines Borough at least 30 days before the election in which the person seeks to vote. The voter must reside in the district in which he seeks to vote.

Section 16.06 Recall

An elected official may be recalled by the voters in the manner provided by Alaska Statutes, which among other provisions states that the clerk may allow petitions only on the basis of misconduct in office, incompetence, or failure to perform prescribed duties. A petition to place the recall of the elected official before voters shall be signed by a number of qualified voters as required by law.

ARTICLE XVII CHARTER AMENDMENT

Section 17.01 Vote Required

This Charter may be amended by the Haines Borough electorate ratifying an amendment at a regular or special election.

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Section 17.02 Procedure

Amendments to this charter may be proposed by ordinance approved by the assembly, by a charter commission established in the manner provided by law, or by initiative petition. Proposed amendments shall be submitted to the voters at the next regular or special election occurring more than forty-five days after the adoption of the ordinance, the final report of the charter commission, or certification of the initiative or referendum petition.

If the proposed amendment is approved by a majority of the voters, it becomes effective at the time set in the amendment; or, if no time is set, it takes effect thirty days after certification of the results of the election.

If more than one amendment is proposed, each amendment shall be submitted to the voters as a separate question.

Section 17.03 New Charter

A new charter may be proposed and approved in the same manner as an amendment.

Section 17.04 Ballot Form

When an amendment to this charter is proposed for adoption by the voters, the ballot proposition shall contain any current wording that is proposed to be changed as well as any proposed wording that will replace it. As much surrounding language shall be included as needed to provide a context for understanding the change in the provision.

Section 17.05 Filing

Amendments to the charter shall be filed as follows:

- (a) the lieutenant governor -- two copies;
- (b) the Alaska Department of Community and Regional Affairs -- two copies;
- (c) the district recorder -- one copy;
- (d) the borough clerk -- one copy.

ARTICLE XVIII GENERAL PROVISIONS

Section 18.01 Conflict of Interest

An elected borough officer may not participate in any official action in which he or a member of his immediate family has a substantial financial interest unless after disclosure of the interest his participation is approved by a majority of the body. This prohibition shall be implemented in the manner provided by law, including provision for public disclosure of substantial financial interests of assembly members, school board members, and members of regulatory,

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appellate and quasi-judicial boards and commissions. The assembly by ordinance shall adopt procedures dealing with nepotism and conflict of interest on the part of borough employees.

Section 18.02 Prohibitions

(A) Except where authorized by ordinance, an elected official of the borough may hold no other compensated borough office or elected position under the state or borough while in office.

(B) For one year after he leaves office, an assembly member or school board member elected under this charter may hold no compensated borough office or employment that was created, or the salary or benefits of which were specially increased during his last year in office by the body of which he was a member. This section does not apply to employment by or election to a charter commission.

(C) For purposes of this section, an independent contractor engaged through competitive bidding is not considered to be a borough employee.

Section 18.03 Public Meetings

(A) Except as provided for in this charter, all meetings of the assembly, the school board, the planning commission and other boards and commissions shall be held in public. The assembly by ordinance shall adopt procedures for reasonable public notice of all meetings. At each such meeting the public shall have reasonable opportunity to be heard.

(B) An executive session may be held to discuss only matters permitted by Alaska Statutes, and even then with due regard for the public's right to know and be self-governed. The general matter for consideration in executive session shall be expressed in the motion calling for the session. No official action may be taken in executive session except to give direction to an attorney or labor negotiator regarding handling of a specific legal matter or pending labor negotiation.

(C) Except in emergency, the assembly, school board, and all borough boards and commissions may take no official action between the hours of midnight and 7:00 a.m. local time. Action taken in violation of this provision is void.

Section 18.04 Public Records

(A) It is the policy of the borough, including the school district, to disclose all records and to provide access to records, except as provided otherwise. Requests for disclosure shall be handled in a timely, reasonable, and responsive manner, without infringing on the rights of any person or other entity, and without impairing the functioning of the borough.

(B) All borough records are open to the public unless authorized to be confidential by a valid Alaska or federal statute or regulation, this charter, or by privilege, exemption, or principle recognized by the courts, or by an agency protective order authorized by law.

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Section 18.05 Oaths of Office

Borough officers, before taking office, shall take and subscribe to the following affirmation: I solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of Alaska and the Charter of Haines Borough, and that I will faithfully perform the duties of _____ to the best of my ability.

Section 18.06 Continuation In Office

Each elected borough officer whose term has expired shall continue to serve until his successor qualifies and takes office.

Section 18.07 Borough Name

The borough may use the name "Haines" wherever for bonding or other purposes, it is to the advantage of the borough to do so.

Section 18.08 Interpretation

(A) Titles and subtitles are for identification and ease of reference only and shall not be construed as interpretations of charter provisions.

(B) Personal pronouns used in this charter shall be construed as including either sex.

(C) References in this charter to particular powers, duties and procedures of borough officers and agencies may not be construed as implied limitations on other borough activities not prohibited by law.

Section 18.09 Definitions

(A) "Appropriation" means a unit of funding provided for by the Assembly in the borough budget. An appropriation may be specific as to particular expenditures or general as to an entire department or agency, as the Assembly deems appropriate.

(B) "Categories" means actual proposed expenditures to be made from an appropriation.

(C) "Emergency" means an unforeseen occurrence or condition which results or apparently will result in an insufficiency of services or facilities substantial enough to endanger the public health, safety or welfare.

(D) "Initiative" means the initiation of borough legislation and its enactment or rejection by the borough electorate in the event the proposed measure is not enacted by the assembly.

(E) "Interest in lands" means any estate in real property or improvements thereon excluding revocable permits or licenses, rights-of-way, or easements that the Assembly finds to be without substantial value to the Borough.

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(F) “Law” means this Charter, the ordinances and resolutions preserved by this Charter, or enacted pursuant to it, and those portions of the statutes of the State of Alaska and the Constitutions of the State of Alaska and of the United States that are valid limitations on the exercise of legislative power by home rule governments.

(G) “Borough” means the “Haines Borough” created upon ratification of this Charter.

(H) “Publish” means to cause to be printed at least once in a publication of general circulation within the borough. The Assembly shall provide for additional modes of dissemination.

(I) “Referendum” means the right of the voters of the Haines Borough to have an act which was passed by the legislative body be submitted for electorate approval or rejection.

(J) “Resident” means a person whose habitual, physical dwelling place is within the area in question and who intends to maintain his dwelling place in that area.

(K) “Supermajority vote” means an affirmative vote by at least 3/4 of the total membership of the voting body.

(L) “Utility” or “Borough Utility” means a utility that belonged to a former government and whose rates are subject to regulation by the Regulatory Commission of Alaska on the date this Charter becomes effective.

ARTICLE XIX TRANSITION

Section 19.01 Effective Date

This charter takes effect upon the effective date of consolidation, which is the day the election of the new assembly is certified.

Section 19.02 Consolidation Election

The election for ratification of this Charter and for consolidation shall be held in accordance with Alaska Statutes 29.06.140.

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Section 19.03 Initial Terms of Assembly and School Board Members

For purposes of the election of the initial Assembly members and school board members: Seats A and D, shall be designated as one-year seats; Seats B and E shall be designated as two-year seats; Seats C, F and G (school board only) shall be designated as three-year seats.

Section 19.04 Prior Law Preserved

All ordinances, resolutions, regulations, orders and rules in effect in any former governments shall continue in full force and effect to the extent that they are consistent with this Charter, until repealed or amended in accordance with this Charter.

Section 19.05 Conflict in Prior Law

In the event of conflict between the ordinances, resolutions and regulations of the former governments, affecting the orderly transition of government, the Mayor shall designate in writing which governs. The designation is effective immediately and shall be communicated to the Assembly. The designation is approved unless the Assembly, within twenty-one days, adopts by resolution a contrary designation.

Section 19.06 Code of Ordinances

Not later than 18 months following the date of consolidation, the assembly shall enact a code of ordinances. Enactment of this Haines Borough Code shall repeal all ordinances of the former governments not included in the code. Repeal is not retroactive and does not affect pending court action.

Section 19.07 Existing Rights and Liabilities Preserved

(A) Except as otherwise provided in this Charter, all rights, titles, actions, suits, franchises, contracts, and liabilities and all civil, criminal or administrative proceedings shall continue unaffected by the ratification of this Charter. The new government shall be the legal successor to the former governments for this purpose.

(B) Any bond of a former government authorized and unissued on the date of ratification or authorized at the elections provided in Section 18.20 remains authorized and may be issued at the discretion of the Assembly without additional ratification and subject to the procedures provided by law.

Section 19.08 Prior Organizations Continued

(A) Upon the effective date of the consolidation, all existing service areas, LID and special assessment districts shall be altered or abolished as follows:

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(1) Land use service areas previously established by the former Haines Borough will lose their service area status and become zoning districts since planning, platting and zoning will be area-wide services; (see section 19.13 of this Charter)

(2) Service areas previously established solely to provide for an LID or other special assessment district shall lose their service area status and continue only as LIDs or other special assessment districts;

(3) Service areas previously established to provide services **and** enable the formation of an LID shall continue as service areas for providing services not otherwise available **and** as an LID until such time as the LID debt is retired.

(4) The Medical Service Area, Docks and Harbors Service Area, Solid Waste Management Service Area, the service area created by Haines Borough Ordinance 01-15 to regulate commercial helicopter flights, and the Disaster Emergency Services service area will be abolished and powers related to those functions will be exercised on an areawide basis by the Haines Borough. The board of the commercial helicopter regulation service area created under Haines Borough Ordinance 01-15 may continue in an advisory capacity on the same basis as boards of other land use service areas according to the provisions of Section 19.14 of this charter.

(5) All other existing service areas which meet criteria prescribed in this charter shall continue to function until altered or abolished by the procedures outlined in this charter and borough code.

(B) All boards and commissions of the former governments shall continue to function until altered in accordance with this charter. The boards of former land use service areas shall be granted advisory status to serve as advisory boards to the new planning commission for a period of one year following the effective date of consolidation.

(C) Upon ratification of this charter the former City of Haines consolidated with the borough shall become a service area for the provision of services formerly provided within its boundaries.

Section 19.09 Organization of the Executive Branch

Not later than 60 days following the effective date of consolidation, the mayor shall submit to the assembly a plan of organization of the executive branch. The plan shall provide for elimination of unnecessary duplication. The proposed plan shall become law twenty days after submitted unless sooner adopted with or without amendment or rejected by the assembly. If the proposed plan is rejected, the mayor shall submit an alternate plan to the assembly within fifteen days of the rejection. If, prior to 20 days following submittal by the mayor of an alternate plan, no such plan of organization has been adopted by the assembly the alternate proposal submitted by the mayor becomes law.

Section 19.10 Employees of Former Governments

(A) Upon ratification of this Charter, employees of former governments become employees of the new government.

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(B) Any employees whose positions are eliminated by the plan of organization prescribed in Section 19.09 shall be eligible for reassignment to available positions for which they are qualified in the order of their seniority based on date of hire by a former government or by the new government.

(C) Pension plans, retirement plans and other benefits for current employees under collective bargaining agreements, personnel rules, or other legal or contractual provisions, including the bargaining rights themselves, in effect on the date of ratification of this charter shall not be diminished by ratification of this charter.

Section 19.11 Assets and Liabilities

(A) The new government shall succeed to all assets and liabilities of the former governments.

(B) Not later than 180 days after the effective date of the consolidation, the assembly shall determine which assets of a former government provided benefit to an area larger than the former government prior to consolidation, or will provide such a benefit after consolidation. The tax obligation for bonded indebtedness, or other debt, incurred prior to consolidation with respect to such an asset shall be spread to such area not later than 18 months after the effective date of the consolidation. However, if sales tax provides revenue to meet such bonded indebtedness obligations, or if the debt is a general obligation of the municipality, the extension of any tax levy or general obligation for that purpose shall not become effective in new areas until an ordinance extending that tax levy or obligation is approved by voters of the area into which the tax levy or obligation is proposed to extend.

(C) Pre-consolidation bonded indebtedness or other debt for sewage collection systems, water distribution systems and streets, even if determined to be used for the benefit of a larger area than that which incurred the debt, shall remain the tax obligation of the area that incurred the debt.

Section 19.12 Utility Profits Preserved

Utilities owned by the former City of Haines shall continue to be operated in such a manner as to provide a reasonable profit, in accordance with applicable regulations of the Alaska Public Utilities Commission. Net profits from the operations of the utilities shall be applied for the benefit of the service area of the former City of Haines utilities as certificated for water and sewer service by the Alaska Public Utilities Commission.

Section 19.13 Planning and Zoning

(A) First appointment. Within 30 days of the effective date of consolidation, the mayor shall appoint and the assembly shall confirm members of the planning commission. For purposes of the appointment of the initial planning commission members, seats A and D shall be one-year terms; seats B and E shall be two-year terms; and seats C, F and G shall be three-year terms.

(B) Initial zones. Within 120 days of the effective date of consolidation, the new assembly shall adopt by ordinance an initial zone having few or no restrictions designated "General Use" for portions of the borough not included in a zoning district established prior to

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consolidation either by the former City of Haines or former Haines Borough. This ordinance shall also specify any platting and land use regulations that will be in effect in the General Use district. The introduction of this ordinance is not subject to the procedure for zoning change protest. Areas of the borough previously designated as zoning districts inside the former City of Haines will retain their zoning classification and land use regulations until altered by the assembly upon recommendation of the planning commission. Land use service areas established by the former Haines Borough will lose their service area status and will become zoning districts. As zoning districts, they will retain their zoning classification and land use regulations until altered by the assembly upon recommendation of the planning commission.

(C) Comprehensive plan. Within 18 months of its appointment, the planning commission shall propose a comprehensive plan to the assembly that accommodates all existing zoning districts and includes recommendations for zoning district changes based on existing land uses and information gathered by a public hearing process.

Section 19.14 Land Use Service Area Boards

The Land Use Service Area boards established in the former Haines Borough may continue to function in an advisory capacity to the planning commission for a period of one year following the effective date of consolidation.

Section 19.15 Compensation of Elected Officials

An elected official shall receive the highest of the salaries and benefits that a comparable official would have received for the same period as an elected official of a former government.

Section 19.16 Transition Plan

Other provisions concerning the transition shall be governed by the transition plan included with the petition to consolidate, as approved by the Local Boundary Commission.

Section 19.17 Definitions for Transition

In this article, "former governments" means the former City of Haines, and the former third class Haines Borough.

"New government" means the consolidated home-rule Haines Borough.

"Utilities" means utilities whose rates are subject to regulation by the Regulatory Commission of Alaska on the date of ratification of this charter.

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ARTICLE XX NOTES AND REFERENCES

(Sections of this article are numbered to refer to articles and sections of this charter: the first number refers to this Article XX; the second number refers to the charter article referenced; and the third number refers to the charter section referenced.)

Section 20.04.01 Initiative and Referendum

Provisions pertaining to the use of initiative are to be liberally construed so that the people of the Haines Borough are permitted to vote and express their will on all subjects open to initiative (this charter and borough legislative measures) and to referendum (borough legislation not more than 90 days old). All doubts as to technical deficiencies or failure to comply with the exact letter of procedure shall be resolved in favor of the initiative. If any conceivable factual basis exists that would render an initiative's classification permissible, it shall be upheld.

Section 20.06.01 Areawide Power of Finance

The Haines Borough may exercise the areawide power to secure and provide financing of capital improvements in furtherance of economic development or for the preservation of public peace, health, safety, and welfare.

In accordance with provisions of Alaska Statutes concerning the construction of municipal powers, this power is to be construed broadly to allow the borough to establish and invest permanent fund money into local improvement districts, in the manner provided by charter and borough code.

Section 20.08.05 Zoning and Boundary Changes

Except for the extension of existing district boundaries, no change of a district or official zoning map shall be considered that creates a spot zone or an area smaller than any well defined and commonly identified area bounded by features such as streets, major creeks, hills, valleys, or large bodies of water.

Section 20.10.02 Taxes

The commission strongly urges the assembly to set sales tax rates that are as uniform as possible throughout the borough. This may encourage businesses which burden municipal services to be located inside the service area which funds those services.

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Section 20.12.01 Petitions of Protest and Proposal of Service Area Ordinances

In addition to other requirements, a petition proposing or protesting a service area ordinance must be signed by a number of voters equal to 25 percent of the votes cast in that area at the last regular election. The petition shall specifically describe the proposed or existing area and the service to be provided or eliminated. The petition of proposal or protest shall not be construed as an initiative or referendum petition, even though it follows the same form.

Section 20.19.08 Prior Service Areas

Service areas formed under the third-class Haines Borough which meet the criteria established in this charter may continue to function until altered or abolished in the manner prescribed by this charter and subsequent borough code. The charter commission, through this charter, prescribes the following treatment of previously existing service areas:

(A) Fire service areas No. 1, No. 2 and No. 3 will continue unaltered;

(B) Road maintenance service areas – The Historic Dalton Trail, Twenty-Five Mile Road, Letnikof Subdivision Road Maintenance Service Area, Riverview Drive Road Maintenance Service Area, and Chilkat State Park Road – will continue unaltered.

(C) Four Winds local improvement district and road maintenance service area will continue as a service area to provide road maintenance and also as a simple LID under the areawide power of finance;

(D) Land use service areas will cease to be service areas and will become planning zones, since planning will be an areawide service; and,

(E) Medical, Docks and Harbors, Solid Waste Management Service Area, service area created by Haines Borough Ordinance 01-15 to regulate commercial helicopter flights, and Disaster Emergency Services service areas will cease to function as service areas and will be administered under the areawide powers of the consolidated borough.